

Several commenters believed that the proposed reporting requirements as outlined above would be overly burdensome. These commenters suggested that EPA should establish annual reporting requirements and allow 45 days to prepare information consistent with the class I reporting system. One commenter suggested EPA should grant broad exemptions without imposing any reporting or ongoing petitioning obligations. The Agency maintains that reporting is necessary in order for the Agency to track HCFC-141b production and use. EPA modified the proposed requirements to reduce the number of entities reporting, the amount of information reported, and the frequency of reporting for petitioners. EPA is also increasing the number of days provided to prepare reports.

In today's final action, EPA is only requiring petitioners and chemical manufacturers/importers to report HCFC-141b acquisition and production/import. Petitioners are required to provide semi-annual reports of total quantities of HCFC-141b received to date within the same control period and the name of the supplier of HCFC-141b. Reports are due 30 days after the second quarter (July 31st) and 30 days after the fourth quarter (January 31st of the subsequent year). Commenters suggested that reporting be conducted on an annual basis consistent with class I reporting. EPA notes that this is an inaccurate description of class I reporting requirements. In the class I system, reports must be filed quarterly. Consistent with the class I reporting system, EPA is finalizing the proposed quarterly reporting scheme for chemical manufacturers/importers. Chemical manufacturers/importers must report the amount of HCFC-141b produced or imported for exemptions and submit copies of HCFC-141b requests with their quarterly class II reports within 30 days of the end of each quarter.

Petitioners must maintain records for three years. Records include: petitions with supporting documentation; EPA letter allocating HCFC-141b exemption allowances; requests for production/importation of HCFC-141b; written verification that the HCFC-141b purchased is for the express purpose of meeting the HCFC-141b exemption needs; HCFC-141b purchasing receipts; and sales receipts for HCFC-141b products sold.

#### 17. Renewal of Requests for HCFC-141b Exemption Allowances Beyond the First Control Period

Although EPA proposed that HCFC-141b exemptions for space vehicle/defense be updated every three years via

submission of an updated report, the Agency has decided to allocate HCFC-141b exemption allowances for one-year intervals. If a petitioner seeks additional HCFC-141b and believes they still meet the criteria established under § 82.18 of this final rule, EPA will evaluate renewal petitions on an annual basis. To apply for renewal of HCFC-141b exemption allowances, petitioners must submit a petition by October 31st of the year preceding the year for which the HCFC-141b is requested. The petition need only include updated information. Petitioners will not be required to submit information previously submitted to the Agency. The update should indicate the following: whether the entity has found no viable substitute and will need to extend their exemption for the next control period; why the entity believes no alternatives are viable for their application; and a detailed description of continuing investigations into and progress on possible alternatives and substitutes. Although the EPA believed the 3-year period was appropriate for space vehicle/defense needs, today's expanded petition process allows for users who may not meet the criteria established under § 82.18 for more than one year. Therefore, EPA will consider petitions and renewals on an annual basis in order to determine continued need for HCFC-141b. Although this process is more burdensome, the Agency believes annual reviews will more accurately reflect current technical needs of all petitioners including space vehicle/defense petitioners. EPA will continue to evaluate this periodic review cycle and the associated burden to assess whether it might be changed.

EPA will conduct no more than a 21-day review of the renewal request. If the petitioner meets the criteria established under § 82.18 and providing the HCFC-141b exemption allowances do not jeopardize U.S. compliance with Montreal Protocol and CAA requirements, EPA will allocate HCFC-141b exemption allowances for the next control period. Furthermore, a petitioner who does not apply for the HCFC-141b exemption in 2003 can submit a petition by October 31st for an exemption in 2004. In that case, the petition would be a full petition following the information requirements spelled out in § 82.18.

#### 18. Penalties for Exceeding HCFC-141b Exemption Allowances

Any petitioner and/or chemical manufacturer/importer who knowingly orders production or import, or produces or imports, in excess of the quantity of unexpended HCFC-141b

exemption allowances held by the petitioner may be fined up to \$27,500 per kilogram of HCFC-141b produced/imported above total quantity of HCFC-141b exemption allowances held. EPA may inspect facilities to verify that information provided in a petition is accurate and to review records to ensure compliance. The fine for not complying with recordkeeping requirements is up to \$27,500 per day, per violation.

#### 19. Criteria for Approval/Disapproval

EPA may grant HCFC-141b exemption allowances if the Agency determines the allowances are necessary to maintain either safety, operational or technical viability.

EPA may decide not to grant HCFC-141b exemption allowances if the Agency determines:

(A) The needs can be met by the use of a substance other than HCFC-141b;

(B) It is technically and economically feasible to use existing supplies of HCFC-141b;

(C) There is evidence of fraud or misrepresentation;

(D) Approval of the allowances would be inconsistent with the Montreal Protocol or Decisions of the Parties;

(E) Approval of the allowances would be inconsistent with the Clean Air Act Amendments of 1990;

(F) There is an inadequate demonstration of efforts undertaken to research and implement alternatives; or

(G) Approval of the allowances may reasonably be expected to endanger human health or the environment.

#### 20. Other Limitations to Approval of Petitions

In addition to constraints due to overall HCFC consumption limits, petitioners should be aware of other requirements that will limit EPA's ability to continue granting exemptions beyond 2010. Section 605 of the CAA contains certain constraints on use, production, and consumption of HCFCs beginning in 2015. In addition, CAA section 605(b)(2) prohibits production of class II controlled substances on or after January 1, 2030. These constraints are discussed in more detail in the proposal (66 FR 38082).

#### F. How Were the Baselines Established?

Section 601(2) of the CAA states that EPA may select "a representative calendar year" to serve as the baseline for allowance allocations for HCFCs. EPA believes that because it is allocating to entities that have very different production and import histories, no one year was representative for all companies. EPA believes that selecting only one year would